

Application No. 10/088,814
Amendment Dated 03/13/2007
Reply to Office Action of 09/18/2006

Remarks/Arguments:

Claims 20, 27, 30 and 34-44 are pending in the application.

Claims 20, 27, 30 and 34-44 are rejected.

In response to the office action Claims 20, 27, 30 and 44 have been amended. Claim 40 has been cancelled.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. The Examiner states that since this application was eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) was timely paid, the finality of the previous Office action was withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5-31-06 was entered.

The Examiner states Applicant's terminal disclaimer has overcome the previous rejection of Obviousness-type Double Patenting.

Claim Rejections - 35 USC § 112, Second Paragraph

2. Claims 20, 27, 30 and 34-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner makes the following comments:

a. Claim 20 and dependent thereon are rejected because claim 20 recites the limitation of "ester or amide thereof" which has indefinite metes and bounds. Although the specification cites examples of ester and amide, such a list is open-ended. It is not clear what other moieties could be ester or amide. Furthermore, many substituents are amide or ester (e.g., -NHZ⁶⁴, -X¹R¹⁵ when X¹ is -OCO-, -SO₂-, -NR¹⁶CO-, etc.) which makes it unclear if additional ester or amide is intended.

Whilst Applicants do not agree with the Examiner we are prepared to delete this term from the claims in order to expedite prosecution. Claims 20 and 30 have been amended and Claim 40 has been cancelled.

b. Claim 27 recites the step of "if desired or necessary converting a group of R^{1'}, R^{2'}, R^{3'} or R^{4'} to a group of R¹, R², R³ and R⁴ respectively or to a different such group" which has indefinite metes and bounds because it is not clear which group gets converted into which. Note, R^{1'}-R^{4'} are the equivalent of R¹-R⁴, thus, it is not clear why conversion would be necessary.

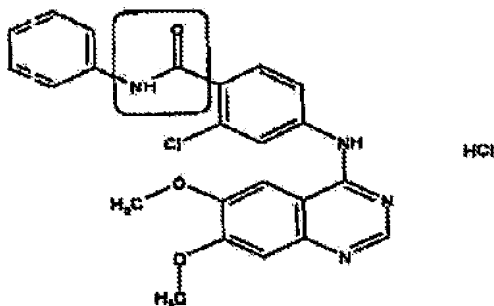
In response to this rejection Applicants have amended the end of claim 27 to read:

if desired or necessary converting a group R^1 , R^2 , R^3 or R^4 respectively to a different such group

Applicants believe we have overcome this rejection and that it is now clear that the final step of the process can involve interconversion of a group R^1 to R^4 to another such respective group.

Claim Rejections - 35 USC § 103

3. Claims 20, 27, 30 and 34-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et. al. (WO 96/15118). The Examiner states that on page 54, Example 11 lists the compound of 4-[3-chloro-4-(N-phenylcarbamoyl)aniline]-6,7-dimethoxyquinazoline hydrochloride salt which has the following structure:



Example 11

The Examiner states that the disclosed compound differs from the claimed formula (IIC) by having -C(=O)NH- (or carbamoyl) attached to the anilino, and not -NHC(=O)- (or amido) as in the side chain of formula (IIC). Applicants note the Examiner has accepted our argument in this regard.

However, the Examiner states, the disclosed formula I has variable X (at the position of the carbamoyl) which represents many divalent groups including -CONR³ as well as NR³CO- (see the definition of X on page 8). Thus, the Examiner concludes, with such an equivalency teaching, the skilled chemist would have been motivated to modify the compound of Example 11 by replacing the -C(=O)NH- group with -NR³CO-. Note, the Examiner states, the first proviso in claim 20 does not exclude obvious variants of the compound in Example 11 since the disclosed compound is substituted with Cl besides the carbamoyl group.

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Whilst the Applicants do not agree with the Examiners analysis, we have further amended claim 20 by replacing formula (IIC) with formula (IID). This amendment results in the positions of the substituents R^7 and R^8 now being specifically defined. Claim 27 has been amended accordingly.

Furthermore, Applicants have additionally incorporated the restriction that R^3 is a group $X^1-R^{15'}$ and $R^{15'}$ is as defined for R^{15} provided that it is other than methyl.

Basis for these amendments can be found at page 60 of the published PCT specification, lines 1-10. As a consequence, provisos (i) - (iii) are rendered moot.

In order to arrive at the presently claimed compounds starting from Example 11 of Brown, the skilled person would firstly have to decide to replace the group $-\text{CONR}^3$ on the aniline ring and then would have to select the replacement to be NR^3CO from among the many possibilities disclosed for the group X. Moreover, having replaced the group on the aniline ring, the skilled person seeking to provide alternatives to the compound of Example 11 (with its methoxy groups at the positions corresponding to $R^{2'}$ and $R^{3'}$ respectively) would then also have to *exclude* the possibility that the group at the position corresponding to present R^3 is methoxy. Applicants submit that Brown provides no motivation for these changes individually and certainly not in combination.

Applicants respectfully request that the Examiner acknowledges the presently claimed compounds are not obvious.

Applicants further submit that claims 27 and 34-44 are also not obvious in view of their dependency on non-obvious claim 20.

References cited on PTO-892

4. Applicants note that the Examiner states the cited references show state of the art because although they teach compounds of 4-anilinoquinazoline substituted with NHC(=O)- , the amido group is always at meta position.

The above amendments have been made without prejudice to Applicants right to prosecute any cancelled subject matter in a timely filed continuation application.

Applicants believe the application is in condition for allowance, which action is respectfully requested.

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A petition for a 3 month extension of time is being filed herewith, the Commissioner is hereby authorized to charge any deficiency in the fees or credit any overpayment to deposit account No. 50-3231, referencing Attorney Docket No. Z70599-1P US.

Respectfully submitted,

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